

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In the matter of:

Hon. William Alsup, Dist. Court  
Hon. Dennis Montali, BK Court

BRUGNARA PROPERTIES VI, Case #17-30501-DM  
a California corporation

**RECEIVED**

NOV 20 2018

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

**FILED**

NOV 20 2018

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

MOTION TO EXTEND DATE  
OF ADVERSARIAL HEARINGS  
REGARDING NOMINEE CLAIMS  
OR ISSUANCE OF WRIT TO  
US MARSHALS TO IMMEDIATELY  
TRANSPORT LUKE BRUGNARA  
TO SAN FRANCISCO TO MEET  
WITH COUNSEL AND TESTIFY  
AT ADVERSARIAL HEARING  
DECLARATION LUKE BRUGNARA

Party In Interest Luke Brugnara requests this Court extend the date of the adversarial hearings on the nominee claims for 120 days, so that Luke Brugnara may complete his sentence and properly prepare with counsel and testify at this hearing. Because these adversarial nominee claims are exclusive to the relationship between Luke Brugnara and the debtor, Brugnara Properties VI, a California corporation ("BPVI"), Luke Brugnara's testimony is essential for this Court to make a fully-informed decision.

Under the 6th and 14th Amendments of the United States Constitution, Luke Brugnara is

entitled to have access to counsel and legal materials. Defendant (US Attorney's actors, Bureau of Prisons ("BOP")) have intentionally violated Luke Brugnara's (2) Constitutional Rights under these Amendments by depriving him access to counsel and legal documents/materials.

Specifically, Luke Brugnara was just placed in isolation solitary confinement ("hole") by BOP on Oct 29, 2018, which has no phone access, no legal access because "BOP made a mistake/error in placing Brugnara at Bezumant USP High prison (for 6 months) when Brugnara only has LOW CAMP designation points; so for Brugnara's sake he must remain in situ ("hole") (with ~~no~~ access to phone or legal documents or even glasses - EMPHASIS ADDED) until Brugnara is transferred". In summation, BOP, at the directive of Defendant, illegally placed Brugnara at the worst USP High prison in the United States (Bezumant USP) to harm Brugnara, when Brugnara is Low/CAMP point designation under BOP statement Policy 5700.08...

This was done by Defendant's actors this past week strategically to impede BPV's preparation and Luke Brugnara's preparation for this Court's December adversarial hearings on the nominee claims.

This illegal, inexplicable "mistake" by Defendant's actors is consistent with the dirty gamesmanship/illegal acts perpetrated throughout Brugnara's case, as detailed in the currently pending 2055 Motions (see CR14-0306 WHA 2255 Reply - Feb. 2018, Mar 2018, Apr 2018 AND the Habeas Corpus Motion filed Aug. 2018) and Habeas Corpus Motions filed with the District Court (Alsop) that detail the shocking, sickening injustices Luke Brugnara has suffered AS AN INNOCENT MAN (EMPHASIS ADDED). Please take the time to read these relevant motions as

they are specific to the adverse and retaliatory<sup>③</sup> actions between the Defendants in this case (the US Attorneys and their actors) and Luke Brynare, and will give this Court a summary of this highly contentious and shockingly illegal abuses of power by the Defendant; which still are yet to be adjudicated by Judge Alsup, but have been preliminarily ordered as "not-forum's" and "mentors" by Alsup when he issued an Order To Show Cause last year, which is still pending final adjudication in District Court.

Regarding the false claims by Defendant regarding Luke Brynare and BPVI, these claims fail at every point as there is no alter-ego/nominee relationship by and between Luke Brynare and BPVI as already ruled in California Superior Court in 2016 and as ruled by Judge Alsup and Judge Spero and Judge Cousins in Federal Court, by inference, when they all ruled in 2010-2018 that Luke Brynare has no ownership interest in BPVI or Soc Cliff, (nominee, direct, or otherwise) and is entitled to CJA counsel. This was stipulated each time by the Defendants without opposition. Nothing NEW has been discovered since those rulings that would warrant relitigating. This is merely a continuing attack on Luke Brynare and his family by the Defendant, as thoroughly detailed in CR14-0306 WHTA 2253s Reply, Feb-April 2018) to muffle and suppress the truth and hold the Defendants accountable for their illegal and unacceptable actions. Additionally, the Defendants continue to

mistake the facts (lie), which confused this Court into an inaccurate ruling last month regarding BPVI, when they (and this Court) falsely stated/ruled: "BPVI was formed by Luke Brugnara and Kay Brugnara to hold title to Sea Cliff". In fact, BPVI WAS FORMED TO ~~THE~~ BE THE MANAGING GENERAL PARTNER OF BRUGNARA PROPERTIES I LP TO HOLD TITLE TO 357 CALIFORNIA STREET IN 2000 BY ORRICK HARRINGTON MANAGING PARTNER BILL MURRAY NOT TO HOLD TITLE TO SEA CLIFF. (EMPHASIS ADDED).

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Further waste of taxpayers dollars in the Defendants' continued assault on Luke Brugnara included unnecessary 60 hour depositions of Luke Brugnara to "fish" for "anything new" because CA Superior Court (in 2016) and Alsop, Spers and Cousins (in 2016-2018) already negated any relationship between BPVI and Luke Brugnara, and the overly-broad subpoenas of bank records (in the "11th hour"). As the Defendants, and this Court are well aware, Luke Brugnara has made TENS OF MILLIONS of DOLLARS of income over the past 17 years as detailed in his 1040 Tax Returns on file with the IRS, including \$4 MILLION in 2008/2009. Any living expenses of the Brugnara family has been paid by Luke Brugnara's verified income as stated herein. There has been NO use of any "BPVI funds" for personal use, as BPVI/Sea Cliff generates no income AND the debt on BPVI/Sea Cliff today (2018) is nearly IDENTICAL to the debt on BPVI/Sea Cliff in 2002 when Sea Cliff was purchased by BPVI (\$8M of debt); so this



1. This error/mistake was memorialized in written Administrative complaints filed by Brugnara 6 months ago with Bezmunt USP and Regional DOP, but ignored -- Brugnara's "safety" only became issue when Brugnara's attorneys began calling Bezmunt USP for legal calls -- then Brugnara was put into 24/7 confinement "for his safety" (no phone, no legal access) 5

Hypothesis by Defendant fails on simple math (debt service + taxes on \$8M annually = \$1M+ year).

It is critically important for Luke Brugnara to be at any adversarial hearings involving the relationship between BPVI and Luke Brugnara. The Defendant has used its considerable powers and its actors to intentionally muffle and cripple BPVI and Luke Brugnara in litigating and preparing for these hearings by LITERALLY locking Luke Brugnara in a "closet/toilet/cell" 24/7, with no phone, no glasses, no legal access 3,000 miles from San Francisco (BOP Statement Policy 5100.08 REQUIRES inmate to be within 500 miles of open/active Federal cases) at the worst USP/HIGH prison in the country when Brugnara has LOW/CAMP points --- (Judge Abus recommended "LOW/CAMP"). Not coincidentally, Brugnara's sentence is over and his 2255's and Habeas Corpus Motions are pending with favorable preliminary rulings, yet Defendant puts Brugnara in 24/7 solitary "for his safety" due to "their error/mistake" (EMPHASIS ADDED), weeks before the scheduled adversarial nominee motions. This Court can certainly see through this charade (Luke Brugnara has no "investigations" or "incident report" and is simply in SHU/hole due to Defendant's actor's "error/intentional mistake").

relevant

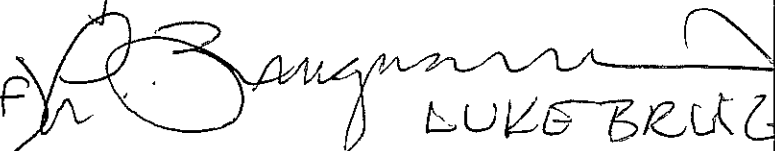
= Other facts are: 9th Circuit Judge Milan Smith ruled in FOURTH INVESTMENT LP (2013):

- 1) "nominee is alter-ego"
  - 2) "Federal Courts defer to state Court rulings on nominee/alter ego claims" (State of Alaska ~~vs~~ alter ego <sup>BPVI (2016)</sup>)
- SPOTTS v. USA (2012) (9th Circuit) detailed the "test" for alter-ego/nominee claims, which ~~now~~ apply to BPVI and Luke Brugnara. Moreover, Federal Judges Alsup, Cawins and Spero, with stipulation and no opposition of the US Attorneys, ruled in 2010-2018 that:

- 1) "Sea Cliff has at least \$1M+ of equity."
- 2) "Luke Brugnara has NO ownership whatsoever in that equity of Sea Cliff or BPVI, (as direct owner, nominee, or otherwise).

This Court is not a venue for the 20+ years relationship between the Defendant and Luke Brugnara. BPVI has secured subordinate financing to payoff the subordinate lenders with one year debt service reserves prepaid on the new 2nd TD and existing 1st TD. BPVI has substantial equity per the Wallace Appraisal and is the Brugnara home for 20 years. Luke Brugnara, who makes millions of dollars a year undisputed, is home in months. There is no need to fuel and enable an unnecessary litigation. The Defendants cannot obstruct and muffle Luke Brugnara's Constitutional Right to access his attorneys, legal materials and the Court, which they are doing now. Luke Brugnara respectfully requests this Court grant this Motion in the interests of justice. The foregoing is TRUE and CORRECT under penalty.

\* (Please forward a copy of this to Judge Alsup.)

  
LUKE BRUGNARA 11/11/18